

CITY COUNCIL

6:00 p.m., Tuesday, January 27, 2015

The regular meeting of City Council was held at 6:00 p.m., Tuesday, January 27, 2015 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf, Bettelli, Buckhannon, Carroll, Ferencz, Harrington, Loftus and Ward, Mayor Cronin, Administrator Tucker, Attorney Halversen, Assistant Administrator Dziuban and Clerk Copeland; a quorum was present to conduct business.

1. Mayor Cronin called the meeting to order and acknowledged that the press and public had been duly notified of the meeting in accordance with the Freedom of Information Act. Following a brief invocation and the Pledge of Allegiance, Clerk Copeland called the roll.

2. Election of Mayor Pro Tem

Councilmember Bergwerf nominated Councilmember Loftus; Councilmember Bettelli seconded. Councilmember Ward nominated Councilmember Carroll, and Councilmember Ferencz seconded. Councilmember Ferencz nominated Councilmember Bergwerf, and Councilmember Harrington seconded. Councilmember Loftus was elected on the first vote of five to four (5-4).

3. Reading of the Journals of Previous Meetings

MOTION: Councilmember Carroll moved to approve the minutes of the regular meeting of November 18, 2014, and the Special Meetings of December 2 and December 11, 2015 and of January 6, 2015; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

MOTION: Councilmember Bettelli moved to reorder the Agenda to hear the item listed under the Public Works Committee regarding the Dangerfield drainage easement; Councilmember Harrington seconded and the motion PASSED UNANIMOUSLY.

5. Reports from Standing Committees

C. Public Works Committee

As Chair of the Public Works Committee, Councilmember Ward reported that, at the meeting of November 5, 2014, the Committee was informed that the Dangerfields wanted to subdivide a lot they own and a drainage line needed to be relocated to facilitate the subdivision. The Committee voted unanimously to approve the relocation of the line.

Attorney Mike Layman, representing the Dangerfields, stated that the hope was to move the drainage line and dedicate the easement to the City to facilitate subdividing the lot into three (3) lots; he reported that the state permits have been obtained.

Councilmember Carroll stated that he was working with the Dangerfields to sell the lots and would recuse himself from participating in the Council decision.

If Council approves the transaction, Administrator Tucker noted that the Dangerfield attorney would need to prepare the proper documents for the City to execute.

Councilmember Loftus asked whether any changes have occurred since the Public Works meeting in November; Mr. Layman responded that no changes have been made.

MOTION: Mayor Cronin moved to approve the request to relocate the drainage line on the Dangerfield property and to grant the easement to the City; Councilmember Ward seconded and the motion PASSED on a vote of 8 to 1 with Councilmember Carroll recusing himself.

4. Citizens' Comments

Administrator Tucker announced that the special presentation noted on the Agenda has been postponed until the February Council meeting.

Gray Taylor introduced himself as the attorney for Brian Berrigan and was attending the meeting representing Marina Joint Ventures and Marina Outpost. Mr. Taylor acknowledge that Mr. Berrigan has successfully managed the marina and operated the marina store for the past fifteen (15) years; he has also execute improvements that have made the store and the marina an integral part of the community and an asset for the City. For the past year, Mr. Berrigan and Mr. Taylor have been working with the City staff to amend the leases to reflect how the store and marina have changed over the years; the amendments before Council at this meeting reflect the results of those discussions. Mr. Taylor expressed confidence that amendments address the concerns from the City staff; the highlights are to extend the lease term for both leases to thirty (30) years and to align them to run concurrently with the same expiration date. The maintenance obligations between the landlord [the City] and the tenant have shifted largely from the landlord to the tenant; the landlord would continue to have responsibility for the bulkhead, the docks and dock fuel lines. Thresholds have been established for notice and approval of ongoing capital improvements. The lease amendments as presented were designed to give the tenant the security of knowing that the lease term will be long enough to meet the maintenance obligations and to continue to make capital improvements to benefit the marina and the City.

The Administrator advised Mr. Berrigan and Mr. Taylor that Council would engage in significant discussions later in the meeting and asked that they remain to answer questions that might be asked.

John Dodds, representing Barrier Isles, LLC dba as Morgan Creek Grill, referred Council to the letter he had sent earlier in the day; he was present to express support for changes to the existing noise ordinance. (A copy of the letter is attached to the historical record of the meeting.) He stated that Barrier Isles believes that it has the right to play amplified music at Morgan Creek Grill in accordance with the existing ordinance for the City of Isle of Palms. In addition, he stated that, "once the lease was executed, the property ceased as a public place and became a private business establishment;" the restaurant has been operating since 2002 and has been playing amplified music for many years. Records provided by the Police

Department indicate that the restaurant has had sixteen (16) complaints that were deemed “founded” over the past seven (7) years. Mr. Dodds reiterated that the restaurant would like to see changes to the noise ordinance that would include an objective standard so that the restaurant and the City were in sync, i.e. management at the restaurant, officers from the Police Department and nearby neighbors all knowing when a level of noise has become unreasonable for the appropriate action can be taken.

Mr. Dodds acknowledged that the ordinance has been difficult for the Police Department to enforce and that, perhaps, Council would like to see more rigorous enforcement. He reported spending a large amount of time with Jay Clarke, owner of Morgan Creek Grill, and Carla Pope, Operations Manager at Morgan Creek Grill, to find ways that they could cooperate with the City to ensure the City’s objectives to protect the residential neighborhoods and the restaurant’s objective to earn a reasonable return on investment and that the interests of the residents in the neighborhoods are protected as well.

One (1) suggestion set forth by Mr. Dodds was to form an *ad hoc* committee to be composed of residents, a representative of the Police Department, a member(s) of Council and City staff for the grievances to be aired and for minds to be put to solving the problem.

Senator Campsen referred to the letter he had presented at the November Real Property Committee dated October 29; the letter stated the problems that people living on Waterway Island, Intracoastal Court and other places have had regarding noise emanating from Morgan Creek Grill. (A copy of the letter is attached to the historical record of the meeting.) Citizens knew that the lease was up for renewal and that the meeting would be an opportunity for the City to determine whether the tenant was in compliance with the provisions of the lease. The Senator disagreed with the statement in Mr. Dodds’ letter that stating “it wasn’t until . . . Wednesday, October 29, 2014 that anyone at Morgan Creek Grill was aware that any of the surrounding neighbors . . . the Mayor and any members of Council were upset about the level of noise emanating from Morgan Creek Grill.” He noted that several members of the audience have called the restaurant a multitude of times, including the managers, and the police in an effort to enforce the noise ordinance; therefore, management had to be aware of the problem. In his opinion, the restaurant and its grounds would be considered public places under the South Carolina Supreme Court’s definition of public place, meaning that the restaurant was not in compliance with §9-2-5 on the City code that states:

“It shall be unlawful to use, maintain or operate loudspeakers, sound tracks, amplifiers or other mechanical or electrical devices for increasing the volume of sound upon the street, sidewalks, parks or other public places of the City.”

According to Senator Campsen, a resident who had yet to speak, had a noise study done at his residence on Waterway Island, and the results were that the noise from Morgan Creek Grill registered seventy (70) decibels, which was equivalent to being fifty (50) feet away from an interstate highway or the level of noise inside a factory. Another resident would present an invoice for eighty-five hundred dollars (\$8,500) to soundproof his home on Waterway Island Drive.

In Senator Campsen's view, even if the restaurant was not deemed to be a public place, it violates another section of the City's noise ordinance, section 9-2-5 a.(3) that states:

"The playing of any hi-fi, stereo or musical instrument in a manner which disturbs any person, or the quiet comfort or repose of any person in any dwelling or other residence."

In summary, if Morgan Creek Grill was not a public place, it violates the City code in that the amplified music is unreasonably loud and disturbs people in their homes.

Mr. Campsen added that the problem has existed for many years, that the residents of Waterway Island are frustrated, and that he was able to gather twenty-nine (29) signatures of residents who agreed that the music is a problem in a single afternoon. He, therefore, asked Council to strengthen the noise ordinance or have more enforcement of the existing ordinance; he suggested that the City should impose enhanced consequences for multiple offences.

Mayor Cronin commented that the Real Property Committee had presented his case well to Council; the situation was discussed at the most recent Public Safety Committee meeting; drafts of proposed changes to the ordinance will be discussed later in the meeting.

Francis Lynch of 29 Waterway Island Drive presented copies of the invoice to soundproof his home to Councilmembers. He stated that he moved to the Isle of Palms about the same time that the Morgan Creek Grill opened, and he had invested eighty-seven hundred dollars (\$8,700) to soundproof his home from the music emanating from the restaurant. He described the restaurant as a singles bar that serves "copious amounts of alcohol;" he reported that the music is so loud inside of his home that he can sing along with it. He voiced the opinion that police officers have not been motivated to help; he added that the noise has gotten steadily worse since he moved into his home twelve (12) years ago.

Chris Scatliff, 32 Waterway Island Drive, stated that, for the past four (4) years, his family has been subjected to the sound intrusion from the outside music venue at Morgan Creek Grill; the music did not start until after he had purchased his property and that the oyster roasts have "greatly exasperated" the issue. He referred to the Charleston County noise ordinance that he thought made it very clear that noise intrusion violation occurs when the sound can be heard within a residence. He then distributed copies of the sound study, performed by an acoustical engineer, in 2013 that refers to decibel noise levels that support Senator Campsen's position that the decibel level standard is likely inappropriate when one lives next to the water. On the subject of enforcement, Mr. Scatliff indicated that one reason behind the restaurant saying that it had not received complaints in the past was because, in his opinion, enforcement on the island is "very weak." He reported calling the restaurant which had lowered the volume in response; he has called the Livability Officer and invited him into the home to hear the noise. He voiced his understanding that officers can only warn the management of the restaurant unless there is another complaint within two (2) hours. He thought the standard should be that, if there are multiple complaints within a two or three (2-3) day period or if there is an accumulation of complaints over a week or so, the restaurant is clearly in violation of the noise ordinance. His

experience with calling the restaurant or the Livability Officer has been that the sound is temporarily turned down only to be in the same situation the next day.

Carla Pope, Operations Manager at Morgan Creek Grill, reported that she was speaking for Jay Clarke, the owner of the restaurant, who is home-bound with the flu; Ms. Pope reported that she has been employed at the restaurant for twelve (12) years. She stated that she and Mr. Clarke understand that there is a problem and noted that she and Mr. Clarke are willing to solve it. She then read a letter from Mr. Clarke into the record. (A copy is attached to the meeting record.)

Ms. Pope expressed confidence that there was a solution to the problem that does not include banning amplified music on the island; she added that the restaurant was willing to adjust what they have to do to make Morgan Creek Grill a good neighbor.

Phillip Smith, 8 Intracoastal Court, asked that changes in the noise ordinance also include other noise, jet skis in particular; he informed Council that his home is next to the marina and that sixteen (16) jet skis that run from 7:00 a.m. to 7:00 p.m. seven (7) days a week during the summer months. He stated that he has asked the Real Property Committee to relocate the watersports dock farther from his home in order not to hurt their business.

Dolly Cannon, 36 Intracoastal Court, said that she loves the music and that she must go outside of her home to hear the music. In her opinion, Morgan Creek Grill is a family place and she enjoys taking her grandchildren there, particularly on Saturday for the oyster roasts and the music. She asked that everyone involved work together; the island needs restaurants on the island. Her suggestion was to lower the music and to limit the hours when music can be offered.

Lila Lee Campsen, 28 Waterway Island, reported she is one of those who have called the restaurant many times asking that the music be turned down, and, after many unsuccessful attempts, she called the police asking that they do something about the noise. She noted that officers have come to her home several times to gauge the noise. Subsequently the music might be lowered for a while, but it soon reaches unreasonable levels again. She commented that, at the end of the day, she “would like to be in the quiet repose” of her own home, not hearing the loud music from Morgan Creek Grill. In conclusion, she stated that she wanted to support the island businesses and to encourage them to do their best; she suggested that the music be moved inside the restaurant.

5. Reports from Standing Committees

A. Ways and Means Committee

From the meeting of January 21, 2015, Mayor Cronin reported that he had been elected Chair and Councilmember Buckhannon was elected to serve as Vice Chair. The Treasurer reported that the City was halfway through the fiscal year, yet expenses in the General Fund were forty-four percent (44%) of budget. Revenues in the General Fund are down from the same period last year, but the City did receive property tax advances from the Charleston County in early January. Municipal Accommodations Taxes are running six percent (6%) ahead of last year

and Hospitality Taxes are nine percent (9%) ahead of FY14. Nothing of financial significance was reported for the wayfinding/parking management project or the shoal management project. Updating the status of the shoal management project, the Mayor stated that approximately two hundred ten thousand cubic yards (210,000 cu. yds.) of sand out of a permitted total of two hundred fifty thousand cubic yards (250,000 cu. yds.) have been moved; sand is currently being harvested from the shoal. With high tides at mid-day, the work has slowed due to limited hours. Mayor Cronin noted that the City will reach the limit and have money in the budget, so staff will approach the Real Property Committee about a permit modification to increase the volume of sand while the contractor is mobilized. Having received authorization from SCDOT to proceed with the beach access parking plan, the Committee discussed the tasks to be done to implement the beach access parking plan; staff was asked to create a timeline and try to allocate resources for the implementation. In addition, the Committee reviewed a historical summary of fund balances.

1. Award of a Sole Source Contract in the amount of \$14,000 to T2 Systems to Develop a Program for the Online Payment of Parking Tickets

Motion: Mayor Cronin moved to award the sole source contract to T2 Systems stated above; Councilmember Bettelli seconded.

The Mayor noted that the City already has T2 equipment in patrol vehicles; the new software will allow for the ticket to be recognized in the court system in order for the court system to match up the online payment to the appropriate ticket.

Councilmember Ferencz noted that this is not related to the beach access parking program.

VOTE: The motion PASSED UNANIMOUSLY.

2. Consideration of Recommendation from the ATAX Committee to Fund the 2015 Dunlop Junior Tennis Championship in the Amount of \$3,500

MOTION: Mayor Cronin moved to fund the 2015 Junior Tennis Championship in the amount of \$3,500; Councilmember Bergwerf seconded.

The Mayor commented that this would be the third consecutive year that the City has funded the event in the amount of thirty-five hundred dollars (\$3,500), and he added that the event brings a lot of people to the island in February.

VOTE: The motion PASSED UNANIMOUSLY.

The next Ways and Means Committee meeting is scheduled for 5:45 p.m., Tuesday, February 17, 2015.

B. Public Safety Committee

From the meeting of January 7th, Councilmember Bettelli reported that he had been elected Chair and Councilmember Bergwerf was elected Vice Chair. As noted earlier, the Committee discussed amendments to the City's noise ordinance and was told that the bids for the RFB on a fire truck will be opened on Tuesday, February 3, 2015. On the subject of golf carts, Administrator Tucker informed the Committee that a proposed change to state law has been drawn up by Senator Campsen that would allow for an interpretation of the golf cart code, making it possible for someone to get from the 21st Avenue end of the island to the Breach Inlet end via the right-of-way along Palm Boulevard. The Committee reviewed the kennel usage for 2014, stating that sixty-three (63) animals had been housed in the kennel for some period of time during the year. A suggestion from Chair Bettelli was to activate the heaters in the kennels on a cold day and take some readings to make sure that, under the right circumstances, heat can be provided for the animals. On the subject of Goat Island noise complaints, the Administrator explained that Goat Island is under the jurisdiction of Charleston County; if they call the IOP 911 line, an IOP officer

would be dispatched, but he would only be responding to the called, taking the information and writing an incident report to facilitate the County's officer(s). Administrator Tucker noted that she had reached out to the events coordinator on Goat Island as a courtesy and informed him that the City has received noise complaints; she also provided him a copy of Charleston County's noise ordinance.

From the monthly Fire Department report, Chair Bettelli stated that that, in November, personnel responded to fifty (50) calls, twenty (20) of which were EMS calls. Six (6) pre-incident surveys and twenty-five (25) fire inspections were performed. In the month of November, personnel led a number of tours and helped people up and down stairs, and Captain Eagle and Engineer Puckhaber held a CPR class that was attended by fourteen (14) residents of Wild Dunes.

In December personnel responded to an elevator rescue involving one (1) persons; once the person was removed, personnel advised the homeowner to have the unit serviced before using it again. Personnel responded to sixty (60) calls in the month and twenty-five (25) of them were EMS calls. Six (6) residential fire inspections were done, and twenty-eight (28) re-inspections revealed eighty-eight (88) violations. The Chief informed the Committee that Fire Department personnel are required to get twenty (20) hours of training each month. The annual safety audit was submitted online and the score has not yet come in, but Chief Graham is confident that it will exceed one hundred percent (100%).

On the police side, officers had nine (9) DUI arrests in December. A gun was stolen from an unlocked vehicle; the owner had the gun's serial number which was entered in the NCIC database. On December 19th, an alarm activation send officers to the four hundred block of Palm Boulevard where they found that a door had been forced open and a TV had been stolen; since good prints were lifted from the scene, officers were waiting for SLED or North Charleston's AFIS to provide possible suspects. On December 20th, officers responded to a noise complaint and discovered a number of minors gathered around a fire on an empty lot in the three hundred (300) block of Palm Boulevard; twenty-two (22) youths were charged with underage drinking. Dispatchers received five thousand eight hundred twelve (5,812) calls; five thousand three hundred three (5,303) were for the IOP Police Department. Officers made four

hundred eighty-two (482) traffic stops that resulted in one hundred forty-eight (148) tickets. From the Livability Report, Captain Usry stated that seven (7) noise complaints were filed for the month and five (5) complaints for barking dogs were filed; officers wrote two (2) warnings and one (1) citation.

Captain Usry reported that a bar code system has been implemented for evidentiary property that goes into the evidence room; in addition, more frequent audits of the evidence room are being conducted by personnel from the evidence room at the City of Charleston. The last such audit was performed in mid-December; the City will receive the report soon.

The next Public Safety Committee meeting is scheduled for 9:30 a.m., Tuesday, February 10th.

In the way of back story, Mayor Cronin relayed that the Real Property Committee had issues on the level of noise emanating from Morgan Creek Grill and took action in November. Subsequently, the Public Safety Committee discussed possible changes to the ordinance which Attorney Halversen had crafted to make it stronger at the January meeting. The discussion at this meeting

was to get a sense of which way Council is leaning after hearing from residents and management at Morgan Creek Grill.

Initiating the discussion, the Mayor noted that he was not interested in establishing a decibel level structure for enforcement.

Councilmember Bettelli noted that the City Attorney had discouraged setting a decibel level.

Mayor Cronin asked Council for their thoughts on the changes to the ordinance that Attorney Halversen has made.

Under the enforcement section, Councilmember Bergwerf commented that the section was not directed at Morgan Creek Grill, but at the whole island. She quoted from the ordinance the following:

“Upon receiving a second complaint by a person of a noise disturbance within a 2-hour period”

She expressed the opinion that two (2) hours was unrealistic. She presented the scenario where people are renting a house on the island and begin to play beer-pong after midnight on the porch, and a noise complaint is made. The second night, the same group of people are outside partying too hard, and another complaint is filed; under this section of the ordinance, the group would receive warnings both times. Councilmember Bergwerf voiced her opinion that the time frame should be seven to ten (7-10) days.

Mayor Cronin asked Chief Buckhannon how an officer on-shift the second day would be made aware of the complaint from the previous night.

Administrator Tucker asked Chief Buckhannon to describe the current protocol for the enforcement of the law and how it would alter with the recommended changes.

As the ordinance exists today, the Chief stated that an officer would determine who has made the complaint and where the complainant lives. The officer will go to the house to hear the noise from their perspective; if the complainant would meet with the officer, he would go into the residence to hear what the noise is like inside. The officer would then go down the street to find out the source of the noise. If the complainant would not allow the officer into the house or did not want to meet with the office – Chief Buckhannon interjected that in the majority of cases, the complainant does not want to meet with the officer – they simply want the officer to handle the complaint. Without going into the residence, the officer would listen to the noise from several vantage points and, once confirmed, seek out the source of the noise complaint. On a first complaint, the officer would issue a warning – a tangible piece of paper stating that it is a warning citation; this procedure was put into place a couple of years ago. If a second complaint is issued within the week, the officer has the information on file from the first call to check.

The chief reported that the process has been successful as evidenced by the numbers; in reviewing the numbers over the last five (5) years, i.e.

2013 – 192 complaints
2014 – 170 complaints
(a decrease of 11%)

The year with the most complaints was 2010; from that year to 2014, the total decrease is thirty-nine percent (39%); the Chief attributes the decrease to issuing the written warnings. The process was developed with the assistance of the City's Prosecuting Attorney.

The question then posed to the Chief was how does the next shift know that a warning was issued to a specific address the previous night?

Chief Buckhannon responded that the next shift officer could call the officer to confirm a prior call, but, with laptops in the patrol vehicles, officers can check the system for a previous complaint. From the earlier warning, the officer verifies the address and to whom the warning ticket was issued.

Councilmember Buckhannon voiced his agreement with Councilmember Bergwerf; in his opinion, it would take away the officer's discretion. He opined that an officer should have the discretion to write a ticket if warranted.

Councilmember Loftus commented that residents do not feel that the Police Department is doing all that it can relative to the noise ordinance; from data provided by the City, the Councilmember gave the following statistics:

<u>YEAR</u>	<u>Complaints</u>	<u>Citations</u>
2009	196	39
2010	241	46

2011	221	25
2012	194	15
2013	193	4
2014	170	9

Councilmember Loftus recalled that the City had created the Livability Court and Livability Officer to deal with this issue, and now residents do not called in complaints because they believe that officers have more important issues to handle. Others do not call because they do not believe that anything will be done. He recalled having attended the Livability Court and being impressed with the way the judge handled the noise citations. In his opinion, writing nine (9) citations from one hundred seventy (170) complaints is a sign that the Department is not doing its job in this area.

Chief Buckhannon responded that a written warning is a citation; it simply does not have a penalty attached to it. The Chief noted that 2014 had an eleven percent (11%) decrease over the prior year for noise complaints and a twelve percent (12%) decrease from the year 2012. Upon studying the noise complaints themselves, of the noise complaints last year with the one hundred thirty-three (133) founded complaints, one hundred twenty-four (124) warning citations and nine (9) written citations, seventy-nine (79) were for people talking on a deck or in a house with open windows or someone going to a taxi. In those situations, officers gave written warnings, and he reiterated his opinion that the written warning citations have brought down the number of complaints. He remarked that he did not think that every noise complaint warranted a written warning citation.

When asked about the number of noise complaints specifically for Morgan Creek Grill, the Chief reported that he did not have that information at this meeting, but he offered to provide it later. Councilmember Loftus continued by saying that people who live around the restaurant feel that the police have not responded properly to enforce the ordinance.

Councilmember Carroll asked whether the Police Department received complaints about other venues on the island, i.e. Grand Pavilion, The Windjammer. Etc. The Chief stated that the Department does receive some calls, but, again, he did not have the numbers at this meeting; these complaints would fall under "Other Areas." Calls for Grand Pavilion are received occasionally, and they are dealt with as any other call.

Mayor Cronin stated that, from looking at the monthly reports, he sees that island residents generate a fair amount of complaints.

Councilmember Ferencz questioned whether a complaint had to be called in or an officer, riding down the street, could stop at a location he thought was creating excessive noise. She stated that the responsibility falls to the residents to call in their complaints.

Administrator Tucker asked Chief Buckhannon about, under the existing ordinance, the Department changing its protocol for enforcement, no more written warning tickets, going into someone's home and confirm the noise, and the officer immediately writes a ticket with a monetary penalty. Under those circumstances, what would be the consequences or concerns about changing the protocol to be that strict?

The Chief answered that, if an officer were to do that for every founded noise complaint, it would have meant one hundred thirty-three (133) citations for 2014; a number of island residents would get tickets, not just vacation renters. Chief Buckhannon responded to the Mayor that the value of a ticket was between one hundred thirty-three dollars and one thousand seventy-eight dollars (\$133-1,078). The fine is at the discretion of the officer depending on the circumstances they must deal with; some officers write the tickets for the maximum fine and let the judge decide what the ultimate penalty will be.

Councilmember Bergwerf suggested the possibility of an officer patrolling the streets who happens upon a band playing on a deck at midnight, asking would that officer would stop. The Chief added that the officer would stop and investigate to see if something else is happening.

For the noise itself, some officers have gone to the door and issued a verbal warning, but, when that has happened, the officer is criticized for being over-zealous and too quick to respond. The Chief reiterated that the Police Department must have a complaint; the noise level is not up to the officer's judgment to make a complaint. The current law is written to protect the people who are being disturbed, resident or visitor.

Councilmember Buckhannon commented that one (1) part of the City's Code states that, outside the noise ordinance, if the noise is plainly laudable after a certain hour on any street or right-of-way, it is a public nuisance. He asked if that section of the code could be used to enforce the noise ordinance rather than waiting for someone to complain. The Chief agreed that the Councilmember was correct for the ten or eleven o'clock time frame, and if amplified music was playing, an officer could take action. The Chief reiterated that the noise must be disturbing the people who are hearing it.

Mayor Cronin referred to the red-lined version of the ordinance and encouraged Council to study it; in the meantime, the Mayor charged the Public Safety Committee to work with the suggested changes and, once completed, to make a recommendation to Council.

Councilmember Ferencz commented that there was nothing in the noise ordinance referring to jet skis or jet packs; she, therefore, asked that the Public Safety Committee consider those noises in its deliberations.

Councilmember Carroll noted that the ordinance does address that type of noise when it speaks to exhaust discharge, the internal combustion engine; Councilmember Buckhannon reported that in addition the ordinance referenced motor boat engines, motorcycle engines etc.

Councilmember Loftus asked that the Public Safety Committee also take the suggestions from Senator Campsen under consideration as they work.

Mayor Cronin concluded the discussion stating that he hopes some kind of arrangement can be made successfully for all involved.

The next Public Safety Committee meeting is scheduled for 9:30 a.m., Tuesday, February 10th.

C. Public Works Committee

At the meeting of January 14th, Councilmember Ward was elected Chair and Councilmember Loftus was elected Vice Chair. Director Pitts reported that vehicle maintenance was low in November but high in December due to work done on one (1) of the flatbeds. The Committee had extensive discussion on the 9th Avenue handicap beach access; the Real Property Committee has spent a good deal of time on the City's handicap access and has arranged to have the 9th Avenue access raised twelve inches (12 in.) to partially restore the dune. The Committee also received an update on the Front Beach lights; Assistant Dziuban reported that SCE&G is currently doing preparatory work and twenty-two (22) of forty-one (41) light poles have arrived. The placement of the new lights will begin on 14th Avenue, and the goal is to complete the installation before the start of the season. Councilmember Ward said that he had received a number of complaints from residents about how long the City-owned Christmas light displays were up, but the lights were promptly removed after the holiday season this year. Another discussion was about the pedestals SCE&G has installed on Front Beach; after a review by Councilmembers Ward and Loftus, they commented that the pedestals did not look anything like the pedestals that were shown to the Committee when the project started. Councilmember Ferencz noted that, if the pedestals were built especially for the City, the City should have some input into their appearance. The Committee was informed that through Transportation Sales Tax funds, 2nd and 3rd Avenues will be resurfaced.

The next Public Works Committee will be at 5:30 p.m., Wednesday, February 11, 2015.

Councilmember Ward questioned Administrator Tucker on whether SCE&G would meet the completion date, which is to be before the season starts in March. The Administrator reported that a site meeting had taken place last week noting the locations of poles, etc.; she assured Council that work was happening and she anticipated them to complete the work as requested. The Administrator voiced skepticism about the completion date also.

Mayor Cronin reported that he and the Administrator had met with the County staff for stormwater; he was both pleased and displeased, i.e. Charleston County is doing the work necessary, but are spending all of the money to do so. The Mayor commented that residents of the island pay thirty-six dollars (\$36.00) per year as stormwater fees as do the other municipalities for which the County is administering that service. This is the sixth year of the program, meaning that the work has moved into the second phase which means it costs more for permitting, documentation and outreach, etc. The Mayor said that he had been told that, at some time in the near future, fees will have to be raised.

D. Recreation Committee

From the meeting on January 6th, Councilmember Carroll was elected Chair and Councilmember Buckhannon was elected Vice Chair. In the monthly report, Director Page noted that all classes were going well; the decline in participation in December was attributed to the holidays. A new class for adults in the New Year is an adult painting party. Adult athletics concluded at the end of the year, but co-ed volleyball and youth basketball begin in January. The November School's Out activity, dodge-ball, drew eighty (80) participants, the highest attendance ever for that program. The Holiday Street Festival was highly successful; it was Andy Sinwald's first event and he did "an amazing job." Eighty (80) children attended the Cookie Workshop where they decorated and ate cookies. The Director and Andy Sinwald are

working together to “kick start” the Wellness Program for 2015. Upcoming events include the Middle School Dance on Friday, January 30th and “Doggie Day at the Rec” on Saturday, February 7th; the Animal Control Officer will be issuing City dog licenses and Dr. Jose will again offer rabies shots.

The Committee was advised that the ice machine has been delivered, but had not been installed when the meeting was held. The porch painting has been completed, and the RecTrak server will be operational once the updates are installed. Estimates for new information boards are anticipated for the February meeting.

The recently rehabilitated sports fields are in great condition and the new irrigation system works well.

When discussing classes and programs to be offered in the future, Councilmember Buckhannon expressed the opinion that many island residents and visitors have very little knowledge about the ocean, tides, rip currents, etc.; he suggested that the Rec Center sponsor classes or programs with DNR and/or OCRM to explain these normal ocean actions. Director Page said that she liked the idea and would look into it.

Councilmember Carroll reported that the Rec staff is using social media to get news out about its programs, activities and events.

Councilmember Ferencz remarked that, at the Doggie Park in the afternoons, many off-island dogs are frolicking with residents’ dogs; she asked whether there has been consideration of requiring that off-island dogs using the Doggie Park must be registered; registration would mean that the dog has been vaccinated.

Mayor Cronin commented that someone would have to be at the Doggie Park at all times to check for registrations, and Administrator Tucker noted that there is a sign at the entrance stating that dogs must have their rabies vaccinations.

Director Page responded that dogs of a certain size should be in the Doggie Park; an altercation occurred with a dog that was too small to be in the Park. She commented that people do not always abide by the rules. The dog park is under the jurisdiction of the IOP Police Department, and owners are required to have a rabies tag displayed on the dog’s collar. The Director reported seeing the Animal Control Officer stop by the dog park on numerous occasions, and he does check for registrations when he is there. According to the Director, the City does not have a requirement for non-residents to register their dogs with the City, and the park is well policed by the island dog owners using the park.

The next Recreation Committee meeting is scheduled for 9:00 a.m., Monday, February 2nd.

Councilmember Loftus suggested that the Recreation Committee look into forming a photography club for residents; he noted that two (2) members of Council are “quite gifted.”

E. Personnel Committee

At the meeting of Tuesday, January 6th, Councilmember Harrington was elected Chair and Councilmember Ferencz was elected Vice Chair. Councilmember Harrington reported that the Personnel Committee had met three (3) times in January, and deliberated on two (2) major topics, i.e. increasing the number of employee holidays and developing 2015 goals for the City Administrator. At the January 6th meeting, the Committee unanimously approved the employee floating holiday for 2015 to be Thursday, December 24th, which was the unanimously choice of employees. Councilmember Bettelli moved to approve two (2) additional holidays for employees, specifically Presidents' Day and Christmas Eve; the motion passed on a vote of two to one (2-1) with Councilmember Ferencz casting the dissenting vote. Councilmember Harrington noted that a survey of holidays from local municipalities has been distributed to Council; the addition of two (2) holidays would cost the City less than one percent (1%) of the employees' salary budget and would put the City more closely aligned with neighboring municipalities. The Councilmember commented that holidays have not been addressed in fourteen (14) years; at that time, the floating holiday was added.

MOTION: Councilmember Harrington moved to approve Presidents' Day and Christmas Eve as additional holidays for employees beginning in 2016; Councilmember Bergwerf seconded.

Councilmember Carroll asked what the cost would be to the City to add two (2) holidays, and the Administrator stated that one (1) holiday costs the City approximately ten thousand dollars (\$10,000).

Mayor Cronin reiterated that the Isle of Palms was out of synch with surrounding local governments.

Councilmember Loftus said that he agreed with doing something for employees related to holidays, but the addition of assigned holidays was not fiscally sound in his opinion, noting that the cost would be two hundred thousand dollars (\$200,000) over twenty (20) years. He recommended that two (2) days be given to employees, but the individual employee could select the days between Labor Day and Easter. In addition, department heads could decide the skeleton staff required for days before or after a holiday. The Councilmember was confident that the City could find a creative way to provide employees with two (2) additional days without impacting the budget.

Responding to Councilmember Buckhannon's question, Administrator Tucker stated that the addition of these days would not eliminate the floating holiday. Noting that Council is starting the budgeting process for the first half of 2016, Councilmember Buckhannon thought that giving employees more holidays was premature since no one knows what the FY16 budget will be.

Mayor Cronin suggested that Council, in spirit, approve eleven (11) holidays in FY16 subject to a detailed budget analysis. The Mayor understood the intention to be to treat employees fairly since they are obviously not getting what would be available to them with another municipality in the local area.

Since government is a service, Councilmember Loftus opined that giving two (2) more holidays would be limiting services to residents.

Councilmember Loftus reiterated that, if employees were given two (2) additional days of their choosing, there would be no affordability issue, therefore, no budgetary impact. He voiced his desire to move forward at the meeting to allow employees two (2) additional holidays to be selected by each employee.

MOTION: Councilmember Bergwerf moved to defer action on additional employee holidays.

Councilmembers Harrington and Bergwerf withdrew the original motion and the second, respectively.

MOTION: Councilmember Harrington moved to approve the 2015 floating holiday as Thursday, December 24th; Councilmember Bettelli seconded.

Based on Councilmember Loftus' idea, Councilmember Ferencz suggested allowing the 2015 floating holiday be a true floating holiday, selected individually by employees.

Administrator Tucker explained that, when the floating holiday was originally established, the idea Councilmember Loftus has put forth was highly debated and looked at from the position of the budget, payroll and department managers. For IOP's size of government and for what is necessary for the City to run, the decision was made at that time to have a particular day voted on by City employees. That is the City's established protocol and is included in the Employee Procedures Manual. The Administrator remarked that the goal was to increase the number of holidays, not to reduce them.

VOTE: The motion PASSED UNANIMOUSLY.

The Special Meetings of January 13th and January 20th were discussions of the appropriate language for the 2015-2016 goals for the City Administrator. Councilmember Harrington stated that the Committee had unanimously approved the following goals:

1. In 2015, the City Administrator will develop an information technology report to include scope, a possible timeline, and budget and personnel resource estimates. This may involve the need for an information technology consultants services which would require inclusion in the 2015-2016 budget.
2. All materials and information related to City Council or Ways and Means Meetings action items will be provided to Councilmembers a minimum of two (2) working days prior to the meeting. It is understood that, in certain circumstances, this may not be possible.

MOTION: Councilmember Harrington moved to approve these 2015 goals that will be included in the 2015 City Administrator's evaluation; Councilmember Ferencz seconded.

Councilmember Ward said that he wanted an in-depth, detailed, specifics of exactly what happened in these deliberations. He asked what happened to City Council's vote on these goals for the Administrator. He asked whether Councilmember Ferencz' work has been

included in the City Administrator's goals. He wanted detail on what happened relative to the Administrator's goals between November and this meeting from both the Personnel Committee and Council.

Mayor Cronin responded that Council has a performance evaluation for the City Administrator that covers twenty-three (23) points of evaluation, which is the work that was done primarily last year; in addition, Council has two (2) specific goals.

Councilmember Ward inquired whether previous the way Council was doing the evaluation where Council had fifteen percent (15%) input on the City Administrator's evaluation was no longer the case, and now Council has more input.

Councilmember Ferencz stated that, in the new evaluation form that will be used for 2015, there are twenty-three (23) topics; each one (1) has equal value, and a Councilmember evaluates the City Administrator, the last point is the goals stated above which is rated the same as others.

Councilmember Ward inquired how much the points in the new evaluation form would count toward the final evaluation score.

The Mayor replied that each point on the evaluation is weighted the same.

Councilmember Loftus expressed concern that, with the volume of work that the parking plan is going to require, the Administrator will be overloaded.

Amendment: Councilmember Loftus moved to amend the motion to drop Goal #1 and replace it with the parking plan as a primary goal.

Councilmember Loftus commented that Goal #1 could be moved to 2016, leaving the implementation of the parking plan as the focus of work for the City Administrator. He stated that the City was not as far along with the parking plan as he would have liked; he suggested that some preliminary things could have already been done, for example a survey of the signs to be purchased, the RP for the software could have been developed, etc.

Councilmember Bettelli seconded the amendment.

Councilmember Ferencz reminded Council that the process for developing the goals started in November with each Councilmember submitting possible goals for the Administrator; those goals were collated and individually discussed. The Personnel Committee chose these goals because they thought these goals represented more of what the whole of Council was saying it wanted to see done.

Councilmember Bergwerf noted that parking was Number 1 on everyone's agenda, and putting its success on the Administrator's shoulders was unfair. She recommended pushing Goal #1 to next year and to proceed with Goal #2.

Councilmember Carroll voiced his agreement with eliminating Goal #1 from this year because the budget is so tight.

According to Councilmember Ferencz, the purpose of Goal #1 was that, in order to integrate, which is how the goal was originally stated, all of the City's needs, the City must know where it is and where it is going. This report would start the process so that, if as the City gets all of the integrated needs, finance to parking, if there was a need for a consultant, the City would have the format to say this is what the City is looking at.

The Mayor said that the Administrator had heard all that has been said and she knows the City needs a plan, without its being made an objective given everything else going on, particularly the parking.

Councilmembers Loftus and Bettelli withdrew the amendment and second, respectively.

Councilmember Loftus asked to re-state his amendment as follows:

Vote on the Amendment: Councilmember Loftus moved to strike Goal #1 and to focus on Goal #2 as the City Administrator's goal in 2015; Councilmember Bergwerf seconded and the motion PASSED on a vote of 8 to 1 with Councilmember Ferencz casting the dissenting vote.

VOTE on the Amended Motion: The amended motion PASSED on a vote of 8 to 1 with Councilmember Ferencz casting the dissenting vote.

Councilmember Harrington announced that December Safety Sweepstakes Winners were:
Recreation Department – Holly Norton Public Works – George Myers
Police Department – Frank Fitzgerald Fire Department – Tywan Heyward

The Employee of the Month was Patrol Officer Kurt Zimmerman.

The next meeting is scheduled for 10:00 a.m., Monday, February 2, 2015 in the Conference Room.

F. Real Property Committee

At the meeting of January 12th, Councilmember Loftus was elected Chair and Councilmember Bergwerf was elected Vice Chair. Jay Clarke of Morgan Creek Grill informed the City that he was in the process of drafting a proposed lease amendment for the restaurant; he anticipates presenting a draft at the February Real Property Meeting. The Committee discussed lease amendments for Marina Joint Ventures and Marina Outpost; the proposed changes must be approved by ordinance that are on the Agenda for First Reading. After receiving approval from OCRM to flatten the dune at the 9th Avenue handicap beach access, some residents expressed concern that the dune had been changed; the beach access path had been lowered by about twelve inches (12 in.) when the work was done causing surrounding residents to fear flooding from an especially high tide or a storm surge. The Committee unanimously approved eleven hundred dollars (\$1,100) to return the path to its height before any work was done. The Committee was told that the Mayor and City Administrator had met with County staff about the need to replace the Front Beach restrooms and to engage Charleston County to pay for them. The County did not commit to funding the construction, they did commit to further look into it –

they wanted to do some collaborative work and research within the County's resources. Director Kerr presented two (2) proposals from the Planning Commission; having evaluated the proposals for the future development plan for the marina, the Planning Commission recommended a contract award to ATM in the amount of one hundred sixty-nine thousand dollars (\$169,000). Additionally, the Planning Commission recommended that the marina be appraised before any work is done to determine a baseline for moving forward; the last appraisal was done in 1988 at a cost of fifty-four hundred dollars (\$5,400). Administrator Tucker estimated the cost of an appraisal today would be seven to ten thousand dollars (\$7,000-10,000); the Committee agreed not to move forward with it. The Administrator reminded the Committee that a prior plan to upgrade the marina parking lot was estimated to cost five hundred thousand dollars (\$500,000). The Committee decided to ask ATM to make their presentation at the February meeting. All tenants were current with their rent. The Administrator gave a brief update on the renourishment project and noted that the project is on schedule and on budget. The Committee was informed that Ocean Club has received a permit for a wave dissipation device should they need it in the future.

The next meeting is scheduled for 5:30 p.m., Monday, February 9, 2015.

In discussion about ATM's presentation at the February meeting, some members of Council preferred that the presentation to the full Council; Administrator Tucker explained that a key reason the presentation is first being made to the Real Property Committee was that the Committee might refine the Planning Commission's recommendation and suggest that the project be phased.

6. Reports from City Officers, Boards and Commissions

- A. Accommodations Tax Advisory Committee** – minutes attached
- B. Board of Zoning Appeals** – no meeting in January
- C. Planning Commission** – minutes attached

Councilmember Buckhannon asked where the Planning Commission was in updating the Comprehensive Plan; he commented that the Planning Commission has taken on several tasks of late and appeared to be losing sight of their primary functions.

Referring to the ATAX meeting, Councilmember Ferencz recalled that Council was to give final approval on over-budget expenditures; Administrator Tucker agreed and indicated that it would be on the agenda for the February Ways and Means Committee meeting.

- 7. Reports from Special or Joint Committees** – None
- 8. Petitions Received, Referred or Disposed of** – None
- 9. Bills Already in Possession of Council** – None
- 10. Introduction of New Bills, Resolutions and Proclamations**
 - A. Re-adoption of City's Safety Policy**

MOTION: Councilmember Bettelli moved suspend the reading and to re-adopt the City's Safety Policy; Councilmember Bergwerf seconded.

Responding to Councilmember Ferencz' question, the Administrator stated that Chief Graham acts as the City's Safety Coordinator and the department managers make up the Safety Committee.

VOTE: The motion PASSED UNANIMOUSLY.

B. First Reading, by title only, of Ordinance 2015-01 - An Ordinance authorizing the City Administrator of the City of Isle of Palms to Execute the Necessary Documents to enter into that Certain Third Amendment to Commercial Lease Agreement Between the City of Isle of Palms and Marina Outpost, LLC, Attached Hereto as Exhibit 1 and Incorporated Herein by Reference, in Order to Extend the Term of the Lease for Thirty (30) Years, to Clarify the Maintenance Responsibilities Between the Parties, and to Provide for Other Amendments to the Terms of the Lease for Alterations and Improvements, Additional Rent, and Subleasing.

MOTION: Mayor Cronin moved to approve Ordinance 2015-01 for First Reading; Councilmember Bettelli seconded and the motion PASSED UNANIMOUSLY.

C. First Reading, by title only, of Ordinance 2015-02 – An Ordinance authorizing the City Administrator of the City of Isle of Palms to Execute the Necessary Documents to enter into that Certain Fourth Amendment to Commercial Lease Agreement Between the City of Isle of Palms and Marina Joint Ventures, Inc., Attached Hereto as Exhibit 1 and Incorporated Herein by Reference, in Order to Extend the Term of the Lease for Thirty (30) Years, to Clarify the Maintenance Responsibilities Between the Parties, and to Provide for Other Amendments to the Terms of the Lease Concerning Improvements and Alterations, Additional Rent, and Subleasing.

MOTION: Mayor Cronin moved to approve Ordinance 2015-02 for First Reading; Councilmember Buckhannon seconded and the motion PASSED UNANIMOUSLY.

D. First Reading, by title only, of Ordinance 2015-03 –An Ordinance Amending Title 7, Licensing and Regulation, Chapter 6, Hospitality Tax, Section 7-6-5, Violations and Penalties, of the City of Isle of Palms Code of Ordinances to Provide for Suspension and/or Revocation of Business Licenses for Failure to Collect or Timely Remit Hospitality Taxes to the City.

Motion: Mayor Cronin moved to approve Ordinance 2015-03 for First Reading; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.

11. FY16 Budget Calendar

The Mayor noted that the FY16 budget calendar was provided in meeting packets, and it follows a similar pattern as the budget calendar for FY15. The goal is to complete the budget in April for a final reading in May 2015.

Councilmember Loftus expressed concern about the schedule; he suggested that the proposed expense budget be presented along with revenues in February. He recounted that, despite the excellent tool staff provided, Council was “to the wire” on approving a budget.

The Mayor commented that the process has to start somewhere, and, for the second year, the starting point will be projected revenue.

When Councilmember Loftus asked what could be different this year from last year, Councilmember Bergwerf stated the change would be for Council “to agree, disagree or agree to disagree.”

Administrator Tucker stated that, after Councilmember Loftus’ made similar comments at the Ways and Means Committee meeting, staff reviewed the budget calendar again; staff agreed that they would be challenged to meet the schedule as presented.

Consideration of Council/Staff Retreat

Mayor Cronin indicated that he would prefer to have a retreat when Council has a draft of the five-year (5 yr.) update to the Comprehensive Plan to discuss all elements of the plan and determine if it agrees with Council’s intentions to move the City forward.

Councilmember Ferencz noted that Council’s work is dictated by the budget, but her impression is that, once the budget is passed, members of Council seem to become distracted and lose focus on the budget. She, therefore, suggested that, after the budget is passed, Council and staff could meet for a half day to make sure Council and staff fully understand what was laid out in the budget for the coming year.

The Mayor stated that Council did not need to take action on a retreat at this meeting.

12. Executive Session for discussion of negotiations incident to proposed contractual arrangements related to marina leases; to receive legal advice related to settlement of legal claims concerning employment matters; and to receive legal advice related to potential claims concerning the City’s noise ordinance.

MOTION: Councilmember Bettelli moved to go into Executive Session at 8:34 p.m. for the reasons detailed above; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

Council returned to regular session at 9:42 p.m.; the Mayor announced that Council had not taken a vote or any action in Executive Session.

MOTION: Mayor Cronin moved to authorize City Administrator Linda Tucker to execute the Settlement Agreement between the City and the Department of Justice; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

13. Adjournment/Conclusion

MOTION: Councilmember Buckhannon moved to adjourn the meeting at 9:44 p.m.; Councilmember Loftus seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland, City Clerk